



4310-EJ

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-HOSP-27423;PPMWMWROW2/PMP00UP05.YP0000]

RIN 1024-AE50

Hot Springs National Park; Bicycling

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend the special regulations for Hot Springs National Park to allow bicycle use on a new trail connection between the Park and property owned by the City of Hot Springs, Arkansas. The new 0.65-mile trail would provide local residents and visitors with access in and across the Park to an extensive network of recreational trails in the City's Northwoods Urban Forest Park. The new natural surface, multi-use trail connection would be open to both pedestrian and bicycle use. National Park Service regulations require promulgation of a special regulation to designate new trails for bicycle use off park roads and outside developed areas.

DATES: Comments on the proposed rule must be received by 11:59 PM EST on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024-AE50, by either of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

(2) *By hard copy:* Mail or hand deliver to: Superintendent, Hot Springs National Park, 101 Reserve Street, Hot Springs, AR 71901.

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words “National Park Service” or “NPS” and must include the docket number or RIN (1024-AE50) for this rulemaking. Comments received may be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Tokey Boswell, Chief of Planning and Compliance, Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102. Phone: 402 661-1534, Email: tokey_boswell@nps.gov

SUPPLEMENTARY INFORMATION:

Background.

People have long recognized the unique thermal waters that flow from the base of Hot Springs Mountain in Hot Springs, Arkansas. For thousands of years before it became a favored vacation destination in the 18th century, and prior to the arrival of early European explorers journeying west of the Mississippi River, Native Americans from around the region traveled to the springs and surrounding rocky mountain slopes, quarrying novaculite from the hilltops for their tools and weapons, and drinking and bathing in the mineral rich waters bubbling from the ground. The first permanent settlers to reach the Hot Springs area in 1807 were quick to realize the springs' potential as a health resort, and a bustling town grew up around the hot springs to provide services for health seekers.

To protect this unique national resource and preserve it for the use of the public, Congress set aside the springs and adjoining mountains as a federal reservation in 1832, making it the oldest unit of the National Park System. Over the next 50 years, the area transformed from a rough frontier town to an elegant and thriving spa city. In 1921, Congress designated the reservation as Hot Springs National Park (the Park). Today, the 5,500-acre Park contains vegetation, thermal waters, cold-water springs, bathhouses and associated cultural features, nearly 26 miles of hiking and equestrian trails, and prehistoric and historic novaculite quarries. The National Park Service (NPS) preserves and manages the natural and cultural resources of the Park for more than 1.5 million annual visitors. The City of Hot Springs, with an approximate population of 37,000, is located next to the Park.

Pullman Avenue Trail Connection / Environmental Assessment.

The NPS proposes to create a new 0.65-mile natural surface trail within the Park. This new Pullman Avenue Trail Connection would extend north from a trailhead at Pullman Avenue and connect the Park with ongoing trail development on City property at the Park's northern boundary. The NPS would build the trail using sustainable trail construction techniques and designate it for both pedestrian and bicycle use. The trail would follow the natural contours of the site, winding around obstacles such as trees, large rocks, and bushes; and would feature shallower grades and wider turns to support user safety, reduce water pooling and erosion, and reduce the overall maintenance costs associated with more complex trail features. This gently-graded bare soil and bedrock trail connection would (1) enhance connectivity within and beyond the Park for the benefit of visitors and residents of the City; (2) expand recreational trail use opportunities; and (3) enhance visitor experience and safety while protecting natural and cultural resources. No equestrian use or motorized uses would be permitted.

On February 1, 2019, the NPS published the Pullman Avenue Trail Connection/ Environmental Assessment (EA). The EA presents two alternatives for future trail opportunities at the Park, and identifies one of the alternatives as the NPS preferred alternative. Under the preferred alternative, the NPS would construct the Pullman Avenue Trail Connection and designate it for pedestrian and bicycle use. The EA evaluates (1) the suitability of the Pullman Avenue Trail Connection for bicycle use; and (2) life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, and methods to protect natural and cultural resources and mitigate impacts associated with bicycle use on the trail in compliance with 36 CFR 4.30(e)(2). The EA, which contains a full description of the purpose and need for taking action, the alternatives considered, maps, and the environmental impacts associated with the project, may be viewed on the park's planning website at <https://parkplanning.nps.gov/hosp> by clicking on the link entitled "Pullman Avenue Trail Connection Environmental Assessment" and then clicking on the link entitled "Document List."

Proposed Rule.

This proposed rule would implement the preferred alternative in the EA and authorize the Superintendent to designate bicycle use on the Pullman Avenue Trail Connection. This proposal does not include any existing park trails, which are not and would not be opened to bicycles by this proposed rule.

This proposed rule complies with the requirement in 36 CFR 4.30 that the NPS must promulgate a special regulation in order to designate a new bicycle trail that requires construction activities outside of developed areas. The proposed rule would add a new paragraph (c) to 36 CFR 7.18— Special Regulations, Areas of the National Park System for Hot Springs National Park. After the trail is constructed, the rule would require the Superintendent to notify

the public prior to designating the trail for bicycle use through one or more of the methods listed in 36 CFR 1.7, and identify the designation on maps available at Park visitor centers and on the Park website (www.nps.gov/hosp). Where the proposed trail crosses or intersects other Park trails closed to bicycle use, signage would clearly indicate allowed uses and restrictions at those intersections. The proposed rule would also authorize the superintendent to establish closures, conditions, or restrictions for bicycle use on the trail after considering public health and safety, resource protection, and other management activities and objectives, provided public notice is given under 36 CFR 1.7(a). Bicycle use would not be authorized by the Superintendent until the NPS completes the planning and environmental review process, completes a written determination as required by 36 CFR 4.30(e)(2), promulgates a final rule, and completes trail construction.

Compliance with Other Laws, Executive Orders and Department Policy.

Regulatory Planning and Review(Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that

the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

Enabling regulations are considered deregulatory under guidance implementing E.O. 13771 (M-17-21). This rule would authorize the Superintendent to allow a recreational activity for the public to enjoy and experience certain areas within the National Park System that would otherwise be prohibited.

Regulatory Flexibility Act.

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This certification is based on information contained in the economic analyses found in the report entitled Draft Cost-Benefit and Regulatory Flexibility Threshold Analyses: Proposed Special Regulations to Designate a New Trail Connection for Bicycle Use at Hot Springs National Park. The document may be viewed at <http://parkplanning.nps.gov/PullmanConnection>, by clicking on the link entitled “Document List.”

Small Business Regulatory Enforcement Fairness Act.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act.

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630).

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132).

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This proposed rule only affects use of federally-administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988).

This rule complies with the requirements of Executive Order 12988. This rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian tribes (Executive Order 13175 and Department Policy).

The Department of the Interior strives to strengthen its government-to-government

relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes. Nevertheless, in support of the Department of Interior and NPS commitment for government-to-government consultation, through the EA process, the NPS initiated consultation with the four Indian tribes traditionally associated with the Park.

Paperwork Reduction Act.

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act.

The NPS has prepared the EA to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. A copy of the EA can be found online at <http://parkplanning.nps.gov/PullmanConnection>, by clicking on the link entitled "Document List."

Effects on the Energy Supply (Executive Order 13211).

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Clarity of this rule.

We are required by Executive Orders 12866 (section 1(b)(12)) and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Drafting Information.

The primary author of this regulation is Megan Apgar, Regulations Program Specialist, Division of Regulations, Jurisdiction, and Special Park Uses, National Park Service.

Public Participation.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section of this document.

Public availability of comments.

Before including your address, phone number, e-mail address, or other personal

identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 36 CFR Part 7

National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10-137 and D.C. Code 50-2201.07.

2. Amend § 7.18 by adding paragraph (c) to read as follows:

§ 7.18 Hot Springs National Park.

* * * * *

(c) *Bicycle Use.*

(1) The Superintendent may designate all or a portion of the following trail as open to bicycle use:

(i) Pullman Avenue Trail Connection (full length of the trail approximately 0.65 miles);

(ii) [Reserved].

(2) A map showing trails open to bicycle use will be available at park visitor centers and posted on the park website. The Superintendent will provide notice of all trails designated for bicycle use in accordance with § 1.7 of this chapter. The Superintendent may limit, restrict, or

impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions in accordance with § 4.30 of this chapter.

Andrea Travnicek

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks

Exercising the Authority of the Assistant Secretary

for Fish and Wildlife and Parks

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